



Office of the Attorney General

State of Texas

November 8, 1996

DAN MORALES
ATTORNEY GENERAL

Mr. Larry W. Schenk
City Attorney
P.O. Box 1952
Longview, Texas 75606-1952

OR96-2067

Dear Mr. Schenk:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101652.

The City of Longview (the "city") received a request for the offense and arrest report in a certain case. You claim that the requested information is excepted from required public disclosure by section 552.108 of the Government Code. You explain that no final action has been taken in the case and that criminal prosecution is pending. You also inform this office that the requestor in this case is the superintendent of a local school district and the subject of the request is a teacher in that school district. You have submitted the responsive records for our review.

We believe that in this case the requestor has a right of access to the information at issue. Section 22.083 of the Education Code provides that

(b) A school district, . . . may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a volunteer or employee of the district.

We note that another statute speaks to the right of school districts to obtain criminal history record information. School districts may obtain "criminal history record information" from the Department of Public Safety as outlined below. Section 411.083 of the Government Code provides that

(a) Criminal history record information maintained by the department is confidential information for the use of the department and, except as provided by this subchapter, may not be disseminated by the department.

(b) The department shall grant access to criminal history record information to:

* * * *

(2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information.

Section 411.097 specifically grants school districts the right to obtain "criminal history record information from the Department of Public Safety. For the purposes of the Government Code, "criminal history record information" is defined as "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal charges and their dispositions." Gov't Code § 411.082(2).

In this instance, you inform this office that the requestor is the superintendent of a school district and the subject of this request is an employee of that district. When read together we believe that section 22.083 of the Education Code and section 411.082 of the Government Code give this particular requestor a statutory right of access to the requested information. *Cf. Brookshire v. Houston Indep. Sch. Dist.*, 508 S.W.2d 675, 678-79 (Tex. Civ. App.—Houston [14th Dist.] 1974, no writ) (when legislature defines term in one statute and uses same term in relation to same subject matter in latter statute, later use of term is same as previously defined). The requested information consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal charges and their dispositions. The city must therefore release all of the requested information to the requestor. Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Open Records Act).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 101652

Enclosures: Submitted documents

cc: Mr. Travis Winn
No. 1 Bobcat Lane
Gary, Texas 75643
(w/o enclosures)